

**PHYSICAL ACTIVITY AND NUTRITION SOCIAL MARKETING
A PUBLIC-PRIVATE PARTNERSHIP
MEMORANDUM OF UNDERSTANDING**

This agreement establishes the terms of a public-private partnership between the Washington State Board of Health (the Board) and the broadcast television station UPN 11 (UPN 11), also known as KSTW, part of the Viacom Television Stations Group, a subsidiary of Viacom, Inc.

The Board, as part of its statutory charge to “explore ways to improve the health status of the citizenry,” agrees to help UPN 11 develop and execute a social marketing campaign (the Campaign) designed to educate the public about the obesity epidemic and to encourage children to be more active and eat healthier foods. Specifically, the Board agrees to provide content and policy expertise to UPN 11, in consultation with other public and nonprofit partners, to develop key messages and other content for the Company to use in the Campaign. The Board further agrees to allow the Company to use its name as an endorser of the Campaign content under specific circumstances, as set forth in this agreement. The parties enter into this agreement with the understanding that no funds or tangible assets shall change hands as a result of this partnership.

GENERAL TERMS OF THE AGREEMENT

1. The Board agrees to develop by January 31, 2005 a one- to two-page outline of a proposed social marketing campaign built around three 30-second broadcast vignettes. This outline will recommend a general theme, three key messages, the primary target audience, any secondary audiences as appropriate, preferred messengers, general suggestions about a creative approach to the vignettes, and a “call to action” that will allow viewers to take additional steps to promote health behaviors. The outline may also make suggestions about ancillary activities related to the broadcast component of the Campaign—such as the content of a print brochures, Web linkages, takeaways, and outdoor advertising. The outline will be developed in consultation with other organizations familiar with the current research and best practices with regard to social marketing aimed and promoting children’s physical activity and nutrition.
2. UPN 11 will have adequate opportunity to review the Campaign outline and may negotiate changes with the Board. Failure of the parties to agree on an initial outline would be grounds for either party to terminate this agreement.
3. Once UPN 11 and the Board have agreed in writing on an outline, UPN will develop a proposal or set of proposals that can be used to recruit additional sponsors for the Campaign.
4. The Board will have adequate opportunity to review the proposal(s) and may negotiate changes with UPN 11. Failure of the parties to agree on the terms of sponsorship proposals may be grounds for either party to terminate this agreement.
5. UPN 11 will develop and maintain a list of potential sponsors for the Campaign. Sponsorships will offset some of UPN 11 initial campaign costs and allow for more frequent broadcasts and/or additional ancillary materials.
6. The Board may suggest potential sponsors to be added to the list at the discretion of UPN 11.

7. The Board will have adequate opportunity to review the list of potential sponsors developed by UPN 11, as well as all later additions to the list. It may object to any sponsors whose organizational or corporate activities are, in the opinion of the Board, counter to the stated goals of the Campaign. Failure of the parties to agree on potential sponsors may be grounds for either party to terminate this agreement.
8. Recruitment of additional sponsors for the Campaign shall be the sole responsibility of UPN 11. Members of the Board and its staff may, at the discretion of the Board, accompany UPN 11 personnel on presentations, but their participation shall be limited to discussing the obesity epidemic, explaining the need for better physical activity and nutrition in children, and reviewing the Board's role in this project.
9. UPN 11 will make a reasonable effort to obtain sponsorship from a diverse group of multiple non-competing corporations and organizations, and shall not promise exclusive sponsorship rights to any single corporation or organization.
10. UPN 11 will not allow elements of a sponsor's brand identity (including such items as taglines, positioning statements, logos, wordmarks, trademarks, and service marks) to dictate or dominate the overall look, feel and content of Campaign materials without the prior approval of the Board. Failure of the parties to agree on how to incorporate a sponsor's brand identity into Campaign materials may be grounds for either party to terminate this agreement.
11. Notwithstanding items 9 and 10 above, the structure of sponsorship agreements shall be at the sole discretion of UPN 11. The Board recognizes that UPN 11 may benefit financially from Campaign sponsorship agreements that are bundled with new or expanded purchases of commercial advertising.
12. If UPN 11 determines that it is unable to secure adequate sponsorship to justify the Campaign, it may decide unilaterally to abort the Campaign. This agreement shall become void upon three business days written notice.
13. If UPN 11 secures sufficient sponsors that are acceptable to the Board, then UPN will produce, in consultation with the Board and at no cost to the Board, all necessary marketing materials for the Campaign, which shall include, at minimum, three 30-second broadcast vignettes, a print brochure, and content on the KSTW Web site with links to the Board Web site and other external resources.
14. The Board agrees to make staff available to consult in the development of vignette scripts, advertising taglines, brochure copy and other content of campaign materials.
15. The Board will have adequate opportunity to review vignette scripts, brochure and advertising copy, the layout of print materials, and proposed Web pages before production, and it must approve, in writing, all final materials before broadcast or publication. Failure of the parties to agree on the content or presentation of any campaign materials may be grounds for either party to terminate this agreement.
16. All campaign materials will identify the Board's contribution in a manner that distinguishes the Board's role from that of the sponsors (e.g., "This message is endorsed by the Washington State Board of Health, and brought to you in part by UPN 11 and Company X").
17. UPN 11 will air the three vignettes a minimum of 120 times Monday through Sunday between 6 a.m. to 11:30 p.m. on KSTW, Channel 11.

18. UPN 11 will distribute the printed campaign brochure at UPN 11 events. It will also work with non-competing advertisers and other partners to distribute the brochure through the retail outlets.
19. The specific elements of the Campaign (for example the number or length of broadcasts) may be changed at any time by mutual written agreement of the parties.
20. None of the print or electronic materials developed for the Campaign may be redistributed, rebroadcast, or repurposed in any way by either party outside the scope of this agreement, including any secondary use by Viacom or its subsidiaries, without the prior written consent of the other party. As a condition of consent, the Board may stipulate that all references to its endorsement be removed.
21. UPN 11 will provide to the Board all requested campaign materials in digital format that can be viewed from the Board Web site and inserted into Board presentations.
22. UPN 11 will provide to the Board all information about the broadcast schedule of Campaign materials, including household reach and other demographic data that would be made available to commercial advertisers.

TERMINATION

1. Either party shall have the right to terminate or cancel this agreement at its convenience and sole discretion upon thirty (30) days written notice to the other party.
2. UPN 11 may terminate this agreement upon five business days of providing written notice to the Board that it is unable, despite good faith efforts, to secure adequate sponsorship for the Campaign.
3. Either party may terminate this agreement immediately with written notice if the parties, despite good faith efforts, are unable to reach agreement on Campaign content, sponsorship or other other areas requiring mutual agreement as set forth in the general terms of this agreement.
4. Within twenty-four (24) hours of termination of this agreement, UPN 11 shall cease broadcasting any electronic campaign materials carrying the endorsement of the Board and shall not reprint, republish or distribute any print materials carrying the endorsement of the Board. Any materials containing Board endorsement will be turned over to the Board within three business days.
5. Nothing in this agreement shall be interpreted as preventing UPN 11 and its sponsors from continuing a social marketing campaign to promote children's physical activity and nutrition after termination of this agreement provided that all references to the Board's endorsement of Campaign content are removed from all Campaign materials.
6. Nothing in this agreement shall be interpreted as preventing the Board from initiating or continuing any social marketing campaigns either in connection with other public-private partnerships or as contracted (paid) relationships.

PRIMARY CONTACTS

The Board's contact for this agreement is Craig McLaughlin. His phone number is (360) 236-4106, FAX number is (360) 236-4088, and mailing address is P.O. Box 47990, Olympia, WA 98504-7990. UPN-11 contact for this agreement is Micheal Seifert. His phone number is (206) 861-8840, FAX number is (206) 861-8865, and mailing address is 602 Oakesdale Avenue SW, Renton, WA 98055.

UNDERSTANDING

This agreement contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall exist or bind any of the parties hereto.

PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on the last date of signature and continue until terminated by either party as stated herein.

AGREEMENT ALTERATIONS AND AMENDMENTS

This agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

HOLD HARMLESS

Each party shall defend, protect, and hold harmless the other party from and against all claims, suits, and/or actions arising from and negligent or intentional act or omission of that party's employees, agents, and/or authorized subcontractor(s) while performing this contract. Claims shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, or otherwise results in an unfair trade practice.

INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

CIVIL RIGHTS AND NON-DISCRIMINATION

During the performance of this agreement, the parties shall comply with all current and future state and federal statutes relating to nondiscrimination. These include but are not limited to: Washington State Law Against Discrimination (Chapter 49.60 RCW), Title VI of

the Civil Rights Act of 1964 (PL 88-352), Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1683 and 1685-1686), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107), the Drug Abuse Office and Treatment Act of 1972 (PL 92-255), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), and the Americans with Disability Act (42 U.S.C., Section 12101 et seq.).

Craig McLaughlin
Executive Director
State Board of Health

Michael Seifert
Director of Sales
UPN-11, KSTW Seattle